

[Federal Register: August 5, 1996 (Volume 61, Number 151)]

[Proposed Rules]

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[DOCID:fr05au96-24]

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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 4, 5, 7, 19, 20, 22, 24, 25, 27, 70, 250, and 251

[Notice No. 834]

RIN 1512-AA72

Importation of Distilled Spirits, Wine and Beer (90 D 003)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of  
the Treasury.

ACTION: Notice of proposed rulemaking.

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SUMMARY: ATF is proposing to revise and recodify the regulations  
pertaining to the importation of distilled spirits, wine and beer. The  
purpose of this revision and recodification is to update and simplify

the regulations in 27 CFR part 251, and to reissue those regulations as part 27 of the same chapter. The proposed changes will reduce the regulatory burden on importers of distilled spirits, wine and beer.

**DATES:** Written comments must be received on or before October 4, 1996.

**ADDRESSES:** Send written comments to: Chief, Wine, Beer and Spirits Regulations Branch, Alcohol and Tobacco Programs Division, Bureau of Alcohol, Tobacco and Firearms, PO Box 50221, Washington, DC 20091-0221.  
Attn: Notice No. 834.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Kirn, Alcohol Import-Export Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Ave., NW, Washington, DC 20226, telephone (202-927-8110).

**SUPPLEMENTARY INFORMATION:**

**Background**

These proposed regulations pertaining to the importation of distilled spirits, wine and beer revise and recodify existing regulations in part 251 in order to update and simplify present requirements. The importation regulations now found in 27 CFR part 251 will be reissued as part 27 of the same chapter.

Certain restrictive regulations have been eliminated and, where appropriate, ATF rulings and Internal Revenue Service (IRS) Revenue Rulings have been incorporated into the proposed importation regulations. Current United States Customs Service (Customs Service)

procedures are also incorporated in this notice where appropriate.

Also, many existing regulations have been rewritten in order to clarify current requirements.

The organization of the proposed importation regulations has been changed from the organization of 27 CFR part 251, in order to put related regulations together. Some of the substantive proposed changes from part 251 are noted below.

#### Change in Designation of Office

The designation of Product Compliance Branch has been changed where it appeared in existing regulations in part 251 to Wine, Beer, and Spirits Regulations Branch in conformity with the change of office designations resulting from the executive level restructuring effective October 2, 1994.

#### Alternate Methods or Procedures

Proposed subpart C contains proposed regulations changing the alternate methods or procedures requirements for importers. Importers will no longer be required to file an application in triplicate, with the regional director (compliance) for each place of business. Under the proposed regulations, importers will only be required to file one application with the regional director (compliance) for each place of business.

## Special Occupational Taxes, Warehouse Receipts Covering Distilled Spirits

Proposed subpart D contains clarifying amendments to existing regulations pertaining to importers engaged in the business of selling, or offering for sale, distilled spirits, wines or beer, and warehouse receipts covering distilled spirits.

## Commercial Samples--Tax Free

In proposed Subpart E, the quantity of distilled spirits, wine or beer which may be imported free of internal revenue tax as samples for use in soliciting orders for products of foreign countries has been increased slightly and changed to metric quantities, to be consistent with the metric quantities given in the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

## ATF and IRS Rulings

Also, proposed Subpart E will incorporate pertinent parts of ATF Ruling 77-33, 1977 ATF C.B. 179, into the proposed importation regulations as recodified, and render the ruling obsolete. ATF Ruling 77-33 held that alcohol may be used to increase the alcohol content in wine provided such use of alcohol is an authorized procedure and is consistent with a standard winemaking process in the country of origin. Wine produced in this manner which is imported into the United States will be taxed as a wine, so long as the alcoholic content of that wine

does not exceed 24 percent by volume. Imported products which contain distilled spirits and which do not meet the conditions described in proposed 27 CFR 27.44, will be taxed as distilled spirits.

In proposed Subpart F, ATF Ruling 83-6, ATF Q.B. 1983-4, 93, and ATF Ruling 84-3, ATF Q.B. 1984-4, 71, relating to the use of certificates of label (COLA) approval by a person other than the owner, will be declared obsolete, with pertinent parts of these rulings incorporated into proposed subpart F as described below. These rulings held that an importer may use COLAs to release products from customs custody only if the certificates are issued to that importer but that shipments may be released to an importer of record who is not the owner of the COLA provided certain conditions are met.

Also in proposed subpart F, Revenue Ruling 56-579, C.B. 1956-2, 1031, will be declared obsolete, upon incorporation of pertinent parts of that ruling into the proposed regulations. Revenue Ruling 56-579 held that distilled spirits withdrawn from customs bond solely for the use of persons determined by the collector of customs to be entitled to free withdrawal privileges such as duly accredited foreign embassy personnel, the foreign diplomatic corps, or members of the armed services of foreign countries on active duty in the United States are not subject to labeling and liquor bottle regulations.

## Alcoholic Beverage Health Warning Statement

Proposed subpart F contains information about the health warning labeling requirements for alcoholic beverages bottled on or after November 18, 1989. The proposed regulations

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require that a health warning statement appear on the labels of all containers of alcoholic beverages sold or distributed. Sale and distribution includes sampling or any other distribution not for sale.

## Samples for Foreign Embassy Use--Exempt From Marking, Bottling and Labeling Requirements

Proposed subpart F contains requirements relating to samples of distilled spirits or wine solely for the use of foreign embassy personnel. Under the proposed regulations, samples to be used solely for the use of the embassy will be exempted from most of the marking, bottling and labeling requirements otherwise applicable.

## Certificates of Origin

Proposed subpart F provides that distilled spirits and wine imported in bottles shall not be released from customs custody unless the invoice for such products is accompanied by a certificate of age and origin in accordance with 27 CFR 5.52 (relating to distilled spirits) or a certificate of origin and identity in accordance with 27 CFR 4.45, (relating to wine).

## Section 5010 Credit Provisions

Proposed subpart F also contains information regarding the credit allowable under 26 U.S.C. 5010 against the tax imposed on distilled spirits by 26 U.S.C. 5001. The credit against the tax imposed on distilled spirits is allowed under 26 U.S.C. 5010 on each proof gallon of alcohol derived from eligible wine, or from eligible flavors which do not exceed 2½ percent of the finished product on a proof gallon basis.

## Wine Less Than 7 Percent Alcohol by Volume

In proposed subpart F, wine having less than 7 percent alcohol by volume must be labeled prior to importation, or, if entered into customs bond, at the time of withdrawal therefrom, under regulations administered by the U.S. Food and Drug Administration (FDA), rather than under the labeling requirements of the Federal Alcohol Administration Act (FAA). In addition, under the Internal Revenue Code of 1986 (IRC), such wine labels should name the kind of wine (class and type), alcoholic content, net content and, if it is an effervescent wine, whether it is sparkling wine or carbonated wine.

## Closures

Subpart F proposes regulations requiring closures or other devices on imported containers of distilled spirits. These proposed regulations

will explain the criteria for closures or other devices.

#### Use of Other Importer's Certificates of Label Approval

Proposed subpart F also discusses use of certificates of label approval (COLA) (ATF F 5100.31) by persons other than the holder of such certificates for purposes of obtaining release of imported products from customs custody. The proposed regulations follow the procedures provided for in ATF Rulings 83-6 and 84-3, *supra*.

#### Record/Filing Requirements

Proposed subpart H contains information instructing importers who have obtained certificates of label approval (COLA) to maintain the original COLAs on file at the basic permit location for not less than 3 years following the last importation of such products. This is the usual retention period for required records under most ATF regulations.

A record retention requirement is necessary to facilitate the enforcement of the labeling laws and to deter the use of false, fraudulent, and inaccurate COLAs. Further, the paperless entry procedures pursued by the Customs Service makes the retention of these records particularly necessary.

#### Bulk Importations

Proposed Subpart I discusses the importation of distilled spirits, wine and beer in bulk. Bulk beer may be imported in containers under the provisions of 27 CFR, part 7. Bulk distilled spirits for

nonindustrial use will not be released from customs custody unless the invoice is accompanied by a certificate of age and origin in accordance with 27 CFR, part 5. Bulk wine for nonindustrial use may be imported in containers in accordance with the provisions of 27 CFR, part 4.

#### Removal of Customs Officers from Customs Bonded Warehouses

Subpart K also proposes changes in importation procedures resulting from removal of U. S. Customs officers from customs bonded warehouse regulations.

These proposed changes implement procedures as a result of the withdrawal of customs officers from both customs bonded warehouses and customs manufacturing bonded warehouses. The Customs Service withdrew these officers in accordance with Treasury Decision 82-204, 47 FR 49355, November 1, 1982.

Following the implementation of changes brought about by T.D. 82-204, when spirits are transferred directly from the place of importation to distilled spirits plant premises without being deposited in a customs bonded warehouse, the customs officer remains responsible for signing the transfer record. However, when spirits are transferred from a customs bonded warehouse to distilled spirits premises, the proprietor of the customs bonded warehouse is responsible for signing the transfer record. While existing regulations specifically state that

distilled spirits plant proprietors are not required to file an application on ATF Form 5100.16 to receive imported spirits from customs custody, such statement has been deleted from the proposed subpart K to avoid confusion. Finally, under the proposed regulations, importers are no longer required to submit copies of the transfer record and package gauge records to ATF. Instead, the proposed regulations require that a copy of such records be retained as part of the importer's records.

The following table is provided to give a better understanding of the regulation changes proposed. The table provides the applicable regulatory section from which the proposed regulation is derived. In addition the table describes the extent to which a regulation is revised or whether it is a new regulatory section.

#### Derivation Table for Part 27

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The requirements of Are derived from

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Subpart A

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Sec. Sec.

27.1..... 251.1 P

27.2..... N

27.3..... 251.2 P

27.4-27.10 [Reserved]

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## Subpart B

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Sec. Sec.

27.11..... 251.11 P

Alcoholic beverage..... 251.11 P

ATF Officer..... 251.11 N

Beer..... 251.11 O

Bonded premises-distilled spirits plant... 251.11 O

Bulk beer..... 251.11 N

Bulk distilled spirits..... 251.11 O

Bulk wine..... 251.11 N

Cereal beverage..... 251.11 N

CFR..... 251.11 O

Commercial bank..... 251.11 N

Container..... 251.11 N

Customs bonded warehouse..... 251.11 C

Customs officer..... 251.11 O

Delegate..... 251.11 N

Director..... 251.11 P

Distilled spirits or spirits..... 251.11 P

Distilled spirits plant..... 251.11 P

Effective tax rate..... 251.11 O

Eligible flavor..... 251.11 O

Eligible wine..... 251.11 O

Foreign-trade zone or zone..... 251.11 N

5010 credit..... 251.11 N

Gallon or wine gallon..... 251.11 O

Importer..... 251.11 O

Industrial or nonindustrial use of spirits 251.11 N

or wine.

Kind..... 251.11 P

Liquors..... 251.11 N

Liquor bottle..... 251.11 O

Liter..... 251.11 N

Malt beverage..... 251.11 N

Package..... 251.11 N

Person..... 251.11 O

Port Director of Customs..... 251.11 P

Proof.....	251.11 O
Proof Gallon.....	251.11 O
Region.....	251.11 O
Regional Director (Compliance).....	251.11 O
Secretary.....	251.11 N
Specially denatured spirits.....	251.11 N
Standard effective tax rate.....	251.11 N
Tank truck.....	251.11 N
Tax.....	251.11 N
This chapter.....	251.11 N
United States.....	251.11 O
U.S.C.....	251.11 O
Wine.....	251.11 C

27.12-27.20 [Reserved]

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## Subpart C

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27.21..... 251.221 P

27.22-22.30 [Reserved]

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## Subpart D

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27.31..... 251.30 P

27.32..... 251.31 P

27.33-27.40 [Reserved]

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Subpart E

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27.41..... 251.40 P

27.42..... 251.40a O

27.43..... 251.41 P

27.44..... 251.42 C

27.45..... 251.42a P

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27.46..... 251.43 P

27.47..... 251.44 P

27.48..... 251.45 P

27.49..... 251.46 O

27.50..... 251.48 P

27.51..... 251.48a P

27.52..... 251.49 P

27.53-27.60 [Reserved]

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Subpart F

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27.61.....	251.55 P
27.62.....	N
27.63.....	251.56 P
27.64.....	251.57 O
27.65.....	251.58 P
27.66.....	N
27.67.....	251.59 P
27.68.....	N
27.69.....	251.60 C
27.70.....	N
27.71.....	N
27.72.....	251.61 P
27.73.....	251.61 & 251.62 C
27.74.....	251.74 C
27.75.....	251.75 C
27.76.....	251.76 P
27.77.....	251.76 P
27.78.....	251.77 P

27.79-27.80 [Reserved]

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Subparts G-H [Reserved]

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27.81-27.110 [Reserved]

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Subpart I

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27.111..... 251.121 P

27.112..... 251.120 P

27.113..... N

27.114..... N

27.115-27.120 [Reserved]

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Subpart J

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27.121..... 251.133 C

27.122..... 251.134 O

27.123..... 251.136 P

27.124..... 251.137 P

27.125..... 251.138 O

27.126..... 251.139 O

27.127-27.130 [Reserved]

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Subpart K

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27.131..... 251.171 P

27.132..... 251.172 P

27.133..... 251.173 C

27.134..... 251.174 P

27.135..... 251.175 P

27.136-27.140 [Reserved]

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Subpart L

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27.141..... 251.181 P

27.142..... 251.182 O

27.143..... 251.183 O

27.144..... 251.184 O

27.145..... 251.185 O

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27.146-27.150 [Reserved]

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Subpart M

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27.151..... 251.201 O

27.152..... 251.202 O

27.153..... 251.204 P

27.154..... 251.206 P

27.155..... 251.207 P

27.156..... 251.209 P

27.157-27.160 [Reserved]

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Action Legend:

C--Complete revision.

O--No revision.

P--Partial revision.

N--New section.

Distribution Table for Part 251

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The requirements of Are now found in

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Subpart A

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Sec. Sec.

251.1..... 27.1

251.2..... 27.3

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Subpart B

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251.11..... 27.11

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Subpart C

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251.30..... 27.31

251.31..... 27.32

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Subpart D

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251.40..... 27.41

251.40a..... 27.42

251.41..... Obsolete.

251.42..... 27.44

251.42a..... 27.45

251.43..... 27.46

251.44.....	27.47
251.45.....	27.48
251.46.....	27.49
251.48.....	27.50
251.48a.....	27.51
251.49.....	27.52

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## Subpart E

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251.55.....	27.61
251.56.....	27.63
251.57.....	27.64
251.58.....	27.65
251.59.....	27.67
251.60.....	27.69
251.61.....	27.72
251.62.....	27.72 & 27.73
251.74.....	27.74
251.75.....	27.75
251.76.....	27.76
251.77.....	27.77

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Subpart H

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251.120..... 27.112

251.121..... 27.111

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Subpart I

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251.133..... 27.121

251.134..... 27.122

251.136..... 27.123

251.137..... 27.124

251.138..... 27.125

251.139..... 27.126

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Subpart L

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251.171..... 27.131

251.172..... 27.132

251.173..... 27.133

251.174..... 27.134

251.175..... 27.135

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### Subpart M

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251.181..... 27.141

251.182..... 27.142

251.183..... 27.143

251.184..... 27.144

251.185..... 27.145

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### Subpart N

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251.201..... 27.151

251.202..... 27.152

251.204..... 27.153

251.206..... 27.154

251.207..... 27.155

251.208..... Obsolete.

251.209..... 27.156

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### Subpart O

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251.221..... 27.21  
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#### Public Participation--Written Comments

ATF requests written comments or suggestions concerning these proposed regulations from all interested persons. All written comments received on or before the closing date will be carefully considered.

Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any material in the comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure.

Comments may also be submitted by facsimile transmission during the hours of 8 a.m. to 3 p.m. (Eastern time) to (202)-927-8602, provided the comment is: (1) Legible; (2) 8 1/2" x 11" in size; (3) contains a written signature; and (4) three pages or less in length. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of three pages will not be

accepted. Receipt of FAX transmittals will not be acknowledged.

Facsimile transmitted comments will be treated as originals.

During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right, in light of all circumstances, to determine if a public hearing will be held.

#### Disclosure

Copies of this notice, and the written comments will be available for public inspection from 7 a.m. to 3:30 p.m. in the ATF Reference Library, Office of Public Affairs and Disclosure, Room 6480, 650 Massachusetts Ave., NW, Washington, DC 20226.

#### Regulatory Flexibility Act

It is hereby certified that this proposed regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because the

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proposal, if promulgated as a final rule, is not expected (1) to have a secondary, or incidental effect on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required.

#### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Pub. L. 104-13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this notice since the only collection of information involved was previously approved under OMB Control No. 1512-0352 and OMB Control No. 1512-0250 and is proposed to be recodified without change.

#### Drafting Information

The principal author of this document is Jennifer Kirn, Alcohol Import-Export Branch, Bureau of Alcohol, Tobacco and Firearms.

#### Lists of Subjects

#### 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection,

Imports, Labeling, Packaging and containers.

#### 27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection,

Imports, Labeling, Packaging and containers.

#### 27 CFR Part 7

Advertising, Consumer protection, Customs duties and inspection,

Imports, Labeling, Packaging and containers.

#### 27 CFR Part 16

Beer, Consumer protection, Customs duties and inspection, Health,

Imports, Labeling, Liquors, Packaging and containers, Safety, and Wine.

#### 27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic

beverages, Authority delegations (Government agencies), Chemicals,

Claims, Customs duties and inspection, Electronic fund transfers,

Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging

and containers, Puerto Rico, Reporting and recordkeeping requirements,

Research, Security measures, Spices and flavorings, Surety bonds,

Transportation, Vinegar, Virgin Islands, Warehouses, Wine.

#### 27 CFR Part 20

Administrative practice and procedure, Advertising, Alcohol,

Authority delegations (Government agencies), Chemicals, Claims,

Cosmetics, Labeling, Packaging and containers, Reporting and

recordkeeping requirements, Surety bonds, Transportation.

#### 27 CFR Part 22

Administrative practice and procedure, Advertising, Alcohol, Authority delegations (Government agencies), Chemicals, Claims, Cosmetics, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Transportation.

#### 27 CFR Part 25

Administrative practice and procedure, Authority delegations (Government agencies), Beer, Claims, Electronic fund transfers, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Research, Surety bonds, Transportation.

#### 27 CFR Part 27

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Beer, Cosmetics, Customs duties and inspection, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Perfume, Reporting and recordkeeping requirements, Transportation, Wine.

#### 27 CFR Part 70

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Claims, Excise taxes, Firearms and ammunition, Government employees, Law enforcement,

Law enforcement officers, Tobacco.

## 27 CFR Part 250

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Beer, Customs duties and inspection, Electronic Funds Transfers, Excise taxes, Liquors, Packaging and containers, Reporting requirements, Surety bonds, Transportation, U.S. possessions, Wine.

## 27 CFR Part 251

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Beer, Customs duties and inspection, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Perfume, Reporting requirements, Transportation, Wine.

## Authority and Issuance

Title 27, Chapter I, 27 CFR Parts 4, 5, 7, 19, 20, 22, 24, 25, 27, 70, 250 and 251 are proposed to be amended as follows:

## PART 4--LABELING AND ADVERTISING OF WINE

Paragraph 1. The authority citation for 27 CFR part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted.

Par. 2. The table of contents is amended by removing from the CROSS REFERENCES section the phrase ``27 CFR Part 251--Importation of Distilled Spirits, Wine and Beer." and by adding the phrase ``27 CFR

Part 27--Importation of Distilled Spirits, Wine and Beer." immediately after ``27 CFR Part 16--Alcoholic Beverage Health Warning Statement.".

#### PART 5--LABELING AND ADVERTISING OF DISTILLED SPIRITS

Par. 3. The authority citation for 27 CFR part 5 continues to read as follows:

Authority: 26 U.S.C. 5301, 7805, 27 U.S.C. 205.

##### Sec. 5.2 [Amended]

Par. 4. Section 5.2 is amended by removing the reference to ``27 CFR Part 251--Importation of Distilled Spirits, Wine and Beer." and by adding the reference ``27 CFR Part 27--Importation of Distilled Spirits, Wine and Beer" immediately after ``27 CFR Part 19--Distilled Spirits Plants.".

#### PART 7--LABELING AND ADVERTISING OF MALT BEVERAGES

Par. 5. The authority citation for 27 CFR part 7 continues to read as follows:

Authority: 27 U.S.C. 205.

##### Sec. 7.4 [Amended]

Par. 6. Section 7.4 is amended by removing the reference to ``27 CFR Part 252--Importation of Distilled Spirits, Wine and Beer.", and by adding the reference ``27 CFR Part 27--Importation of Distilled Spirits, Wine and Beer."

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immediately after ``27 CFR Part 25--Beer.".

## PART 19--DISTILLED SPIRITS PLANTS

Par. 7. The authority citation for 27 CFR Part 19 continues to read as follows:

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004-5006, 5008, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111-5113, 5142, 5143, 5146, 5171-5173, 5175, 5176, 5178-5181, 5201-5204, 5206, 5207, 5211-5215, 5221-5223, 5231, 5232, 5235, 5236, 5241-5243, 5271, 5273, 5301, 5311-5313, 5362, 5370, 5373, 5501-5505, 5551-5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

### Sec. 19.3 [Amended]

Par. 8. Section 19.3 is amended by removing the reference to ``27 CFR Part 251--Importation of Distilled Spirits, Wine and Beer." and by adding the reference ``27 CFR Part 27--Importation of Distilled Spirits, Wine and Beer" immediately after ``27 CFR Part 24--Wine.".

### Sec. 19.524 [Amended]

Par. 9. Section 19.524(a)(1) is amended by removing the phrase ``parts 250 and 251" and adding the phrase ``parts 27 and 250" in the first sentence.

Par. 10. Section 19.524(b)(1) is amended by removing the phrase

``parts 250 and 251" and adding the phrase ``parts 27 and 250" in the first sentence.

Par. 11. Section 19.524(b)(3) is amended by removing the phrase ``part 250 and 251" and adding the phrase ``part 27 and 250" in the first sentence.

Sec. 19.538 [Amended]

Par. 12. Section 19.538(a)(1)(iii) is amended by removing the phrase ``part 251" and by adding the phrase ``part 27".

Par. 13. In Sec. 19.662, the undesignated paragraph is redesignated as paragraph (a) and paragraph (b) is added to read as follows:

Sec. 19.662 Affixing closures.

\* \* \* \* \*

(b) Closures or other devices need bear no letter or design; however, if a closure or other device bears any lettering or design which was not approved for use on such closure or other device as part of the certificate of label approval, ATF Form 5100.31, or which does not appear on a label used in connection with a closure or device, then such lettering or design is required to be approved for use by the Director in response to a letterhead application from the importer. Such application shall contain a copy of the lettering or design which is to appear on the closure or other device and identify the label or

labels with which such closures or other devices will be used.

## PART 20--DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Par. 14. The authority citation for 27 CFR part 20 continues to read as follows:

Authority: 26 U.S.C. 5001, 5206, 5214, 5271-5275, 5311, 5552, 5555, 5607, 6065, 7805.

### Sec. 20.3 [Amended]

Par. 15. Section 20.3 is amended by removing the reference to ``27 CFR Part 251--Importation of Distilled Spirits, Wine and Beer." and by adding the reference ``27 CFR Part 27--Importation of Distilled Spirits, Wine and Beer." immediately after ``27 CFR Part 21--Formulas for Denatured Alcohol and Rum.".

## PART 22--DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Par. 16. The authority citation for 27 CFR part 22 continues to read as follows:

Authority: 26 U.S.C. 5001, 5121, 5142, 5143, 5146, 5206, 5214, 5271-5276, 5311, 5552, 5555, 6056, 6061, 6065, 6109, 6151, 6806, 7011, 7805; 31 U.S.C. 9304, 9306.

### Sec. 22.3 [Amended]

Par. 17. Section 22.3 is amended by removing the reference to ``27 CFR Part 251--Importation of Distilled Spirits, Wine and Beer." and by adding the reference ``27 CFR Part 27--Importation of Distilled

Spirits, Wine and Beer." immediately after ``27 CFR Part 19--Distilled Spirits Plants."

#### PART 24--WINE

Par. 18. The authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111-5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364-5373, 5381-5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304 and 9306.

#### Sec. 24.4 [Amended]

Par. 19. Section 24.4 is amended by removing the reference to ``27 CFR Part 251--Importation of Distilled Spirits, Wine and Beer." and by adding the reference ``27 CFR Part 27--Importation of Distilled Spirits, Wine and Beer." immediately after ``27 CFR Part 19--Distilled Spirits Plants."

#### Sec. 24.272 [Amended]

Par. 20. Section 24.272(a)(1) is amended by removing ``parts 250 and 251" and by adding ``parts 27 and 250" in the first sentence.

Par. 21. Section 24.272(b)(1) is amended by removing ``parts 250

and 251" and by adding ``parts 27 and 250" in the first sentence.

Par. 22. Section 24.272(b)(3) is amended by removing ``parts 250 and 251" and by adding ``parts 27 and 250".

#### PART 25--BEER

Par. 23. The authority citation for 27 CFR Part 25 continues to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5002, 5051-5054, 5056, 5061, 5091, 5111, 5113, 5142, 5143, 5146, 5222, 5401-5403, 5411-5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7011, 7342, 7606, 7805; 31 U.S.C. 9301, 9303-9308.

#### Sec. 25.4 [Amended]

Par. 24. Section 25.4 is amended by adding the reference ``27 CFR Part 27--Importation of Distilled Spirits, Wine and Beer." immediately after ``27 CFR Part 7--Labeling and Advertising of Malt Beverages.".

#### Sec. 25.165 [Amended]

Par. 25. Section 25.165(a)(1) is amended by removing ``parts 250 and 251" and by adding ``parts 27 and 250" in the first sentence.

Par. 26. Section 25.165(b)(1) is amended by removing ``parts 250 and 251" and by adding ``parts 27 and 250" in the first sentence.

Par. 27. Section 25.165(b)(3) is amended by removing ``parts 250 and 251" and by adding ``parts 27 and 250" in the first sentence.

Par. 28. Part 27 is added to read as follows:

**PART 27--IMPORTATION OF DISTILLED SPIRITS, WINE AND BEER**

**Subpart A--Scope Of Regulations**

**Sec.**

27.1 Imported distilled spirits, wine and beer.

27.2 Related regulations.

27.3 Forms prescribed.

27.4-27.10 [Reserved]

**Subpart B--Definitions**

27.11 Meaning of terms.

27.12-27.20 [Reserved]

**Subpart C--Miscellaneous Provisions**

27.21 Alternate methods or procedures.

27.22-27.30 [Reserved]

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**Subpart D--Special (Occupational) Taxes**

27.31 Special (occupational) taxes.

27.32 Warehouse receipts covering distilled spirits.

27.33-27.40 [Reserved]

**Subpart E--Tax On Imported Distilled Spirits, Wine, and Beer**

**Distilled Spirits**

27.41 Distilled spirits.

27.42 Computation of effective tax rate.

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Wine

27.44 Wine.

27.45 Still wine containing carbon dioxide.

Liqueurs, Cordials, and Other Compounds and Preparations

27.46 Liqueurs, cordials, and similar compounds.

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27.48 Rate of tax.

27.49 Computation of tax.

Collection of Internal Revenue Taxes

27.50 Imported distilled spirits, wine and beer.

27.51 Payment of tax by electronic fund transfer. (EFT).

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27.70 Containers of imported alcoholic beverages to bear health warning statement.

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27.71 Use of certificates of label approval by other importers.

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27.72 Containers of distilled spirits to bear closures or other devices.

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27.74 Exemption from requirement pertaining to marks, bottles, and labels.

27.75 Imported samples of distilled spirits, wine and beer.

#### Wine and Flavors Content of Distilled Spirits

27.76 Approval and certification of wine and flavors content.

27.77 Certificate of effective tax rate computation.

27.78 Standard effective tax rate.

27.79-27.80 [Reserved]

Subparts G-H [Reserved]

27.81-27.110 [Reserved]

#### Subpart I--Importation Of Distilled Spirits, Wine and Beer in Bulk

27.111 Distilled spirit containers.

27.112 Persons authorized to receive distilled spirits imported in bulk.

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27.115-27.120 [Reserved]

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27.121 General requirements.

27.122 Proprietors of qualified premises.

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27.123 Filing.

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27.157-27.160 [Reserved]

Authority: 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5054, 5061, 5111, 5112, 5114, 5121, 5122, 5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805; 27 U.S.C. 203, 205, 206, 215.

Cross References: For regulations with respect to distilled spirits, wine, and beer arriving in the United States from Puerto Rico and the Virgin Islands, see part 250 of this chapter.

For regulations with respect to the exportation of distilled spirits, denatured spirits, wine, beer or beer concentrate without payment of tax or with benefit of drawback of tax, see part 252 of

this chapter.

## Subpart A--Scope Of Regulations

### Sec. 27.1 Imported distilled spirits, wine, and beer.

This part, ``Importation of Distilled Spirits, Wine, and Beer," contains the regulations relating to the importation of distilled spirits, wine, and beer into the United States from foreign countries, including special (occupational) and commodity taxes, permits, marking, branding, closing and labeling of containers, and records and reports.

### Sec. 27.2 Related regulations.

Regulations related to this part are listed below:

19 CFR Chapter I--Customs Regulations.

27 CFR Part 1--Basic Permit Requirements under the Federal Alcohol Administration Act, Nonindustrial Use of Spirits and Wine, Bulk Sales and Bottling of Distilled Spirits.

27 CFR Part 4--Labeling and Advertising of Wine.

27 CFR Part 5--Labeling and Advertising of Distilled Spirits.

27 CFR Part 7--Labeling and Advertising of Malt Beverages.

27 CFR Part 16--Alcoholic Beverage Health Warning Statement.

27 CFR Part 19--Distilled Spirits Plants.

27 CFR Part 21--Formulas for Denatured Alcohol and Rum.

27 CFR Part 24--Wine.

27 CFR Part 25--Beer.

27 CFR Part 30--Gauging Manual.

27 CFR Part 194--Liquor Dealers.

31 CFR Part 225--Acceptance of Bonds, Notes, or Other  
Obligations Issued or Guaranteed by the United States as Security in  
Lieu of Surety or Sureties on Penal Bonds.

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Sec. 27.3 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part, including reports, returns and records. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) Requests for forms should be mailed to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950.

Secs. 27.4--27.10 [Reserved]

Subpart B--Definitions

Sec. 27.11 Meaning of terms.

When used in this part and in forms prescribed under this part, unless the context otherwise requires, terms shall have the meaning ascribed in this section. Words in the plural form shall include the

singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms ``includes" and ``including" do not exclude things not enumerated which are in the same general class.

Alcoholic beverage. Any beverage in liquid form which contains not less than one-half of one percent (.5%) of alcohol by volume and is intended for human consumption.

ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Beer. Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of one percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute for malt.

Bonded premises-distilled spirits plant. The premises of a distilled spirits plant, or part thereof, on which distilled spirits operations defined in 26 U.S.C. 5002 are authorized to be conducted.

Bulk beer. Beer in a container other than an authorized original consumer container.

Bulk distilled spirits. Distilled spirits in a container having a capacity in excess of 1 gallon.

Bulk wine. Wine in a container having a capacity in excess of 60 liters.

Cereal beverage. A beverage produced either wholly or in part from malt (or a substitute for malt), and either fermented or unfermented, which contains, when ready for consumption, less than one-half of 1 percent of alcohol by volume.

CFR. The Code of Federal Regulations.

Commercial bank. A bank, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The ``FRCS" or ``Fedwire" is a communications network that allows Federal Reserve System member banks to effect a transfer of funds for their customers (or other commercial banks) to the Treasury Account at the Federal Reserve Bank of New York.

Container. Any receptacle, vessel, or form of package, bottle, can, tank, or pipeline used, or capable of being used, for holding, storing, transferring, or conveying liquor or specially denatured spirits.

Customs bonded warehouse. A customs bonded warehouse, class 2, 3, 6 or 8, established under the provisions of customs regulations (19 CFR Ch. I).

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary

of the Treasury to perform any duties of an officer of the Customs Service.

Delegate. Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC 20226 or his/her delegate.

Distilled spirits or spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced), including alcohol, whisky, brandy, gin, rum and vodka, but not denatured spirits. Distilled spirits does not include beer or wine.

Distilled spirits plant. An establishment qualified under the provisions of Part 19 of this chapter for the production, storage or processing of distilled spirits.

Effective tax rate. The net tax rate after reduction for any credit allowable under 26 U.S.C. 5010 for wine and flavor content at which the tax imposed on distilled spirits by 26 U.S.C. 5001 is paid or

determined.

Eligible flavor. A flavor which:

(1) Is of a type that is eligible for drawback of tax under 26

U.S.C. 5134,

(2) Was not manufactured on the premises of a distilled spirits plant, and

(3) Was not subjected to distillation on distilled spirits plant premises such that the flavor does not remain in the finished product.

Eligible wine. A wine containing not more than 0.392 gram of carbon dioxide per 100 milliliters of wine which has not been subject to distillation at a distilled spirits plant after receipt in bond.

Foreign-trade zone or zone. A foreign-trade zone established and operated pursuant to the Act of June 18, 1934, as amended. See customs regulations.

5010 credit. A credit against the tax imposed on distilled spirits by 26 U.S.C. 5001 is allowable under 26 U.S.C. 5010 on each proof gallon of alcohol derived from eligible wine or from eligible flavors which do not exceed 2½ percent of the finished product on a proof gallon basis. The credit is allowable at the time the tax is payable as if it constituted a reduction in the rate of tax.

Gallon or wine gallon. A United States gallon of liquid measure equal to the volume of 231 cubic inches.

Importer. Any person who imports distilled spirits, wine or beer into the United States.

Industrial or nonindustrial use of spirits or wine. The use of spirits or wine shall, for the purposes of this part, be regarded as industrial or nonindustrial based on the provisions of 27 CFR part 1.

Kind. As applied to spirits, kind shall mean class and type as prescribed in 27 CFR part 5. As applied to wine, kind shall mean the classes and types of wine as prescribed in 27 CFR parts 4 and 24.

Liquors. Distilled spirits, wine and beer which are fit for beverage use. The word liquor does not include specially denatured spirits, nonbeverage wine or beer concentrate.

Liquor bottle. A bottle made of glass or earthenware, or of other suitable material approved by the Food and Drug Administration, which has been designed or is intended for use as a container for distilled spirits for sale for beverage purposes and which has been determined by the Director to adequately protect the revenue.

Liter. A metric unit of capacity equal to 1,000 cubic centimeters at 20 degrees C. or 33.814 United States fluid ounces at 68 degrees F. of alcoholic beverage.

Malt beverage. When used in connection with the Federal Alcohol Administration Act, a beverage made by the alcoholic fermentation of an

infusion or decoction, or combination of both, in potable brewing water, of

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malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption. The term includes such products containing alcohol in an amount of less than one-half of one percent alcohol by volume.

Package. Any cask, keg, barrel, drum, or similar portable container.

Person. An individual, a trust, estate, partnership, association, company, or corporation.

Port Director of customs. The chief customs official at a customs port.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof gallon. A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Region. A Bureau of Alcohol, Tobacco and Firearms region.

Regional Director (Compliance). The principal ATF regional official responsible for administering regulations in this part.

Secretary. The Secretary of the Treasury or his/her delegate.

Specially denatured spirits. Alcohol, or rum, as defined in part 21 of this chapter, denatured pursuant to the formulas authorized in part 21 for specially denatured alcohol or rum, and including denatured spirits for export as authorized by 27 CFR 21.5.

Standard effective tax rate. The rate of tax established based on the least quantity and the lowest alcohol content of eligible wine or eligible flavors used in the manufacture of a distilled spirits product.

Tank truck. A tank-equipped trailer, semi-trailer, or truck.

Tax. The distilled spirits, wine or beer tax imposed by 26 U.S.C.

Chapter 51.

This chapter. Title 27, Code of Federal Regulations, Chapter I (27 CFR Ch. I).

United States. ``United States" includes only the States and the District of Columbia.

U.S.C. The United States Code.

Wine. When used without qualification, the term includes every kind

(class and type) of product produced from fruit, berries, or other suitable agricultural products, excluding a product containing less than one-half percent of alcohol by volume or more than 24 percent of alcohol by volume. The term includes all imitation, other than standard, or artificial wine and compounds sold as wine.

(68A Stat. 917, as amended (26 U.S.C. 7805); 49 Stat. 981, as amended (27 U.S.C. 205))

Secs. 27.12-27.20 [Reserved]

#### Subpart C--Miscellaneous Provisions

Sec. 27.21 Alternate methods or procedures.

(a) Application. An importer who desires to use an alternate method or procedure in lieu of a method or procedure prescribed by this part shall file an application with the regional director (compliance) of the appropriate region, (in which the place of business is located, as determined by the address shown on the importer's basic permit). If the importer has several places of business at which such alternate method or procedure will be used, a separate application shall be submitted for each location. Each application shall:

- (1) Specify the name, address, and permit number of the importer to which it relates;
- (2) State the purpose for which filed; and
- (3) Specifically describe the alternate method or procedure and set

forth the reasons therefor.

(b) Approval. When an application for use of an alternate method or procedure is received, the regional director (compliance) shall determine whether approval thereof would unduly hinder the effective administration of this part or would result in jeopardy to the revenue.

No alternate method or procedure relating to the assessment, payment, or collection of tax shall be authorized under this paragraph. The regional director (compliance) shall forward the application to the Director, together with a report of findings and a recommendation. The Director may approve the alternate method or procedure if it is found that:

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure, and affords equivalent security to the revenue; and

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this part.

(c) Conditions for use. No alternate method or procedure shall be

used until approval has been received from the Director. Authorization for the alternate method or procedure may be withdrawn whenever in the judgment of the Director the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such authorization.

(Approved by the Office of Management and Budget under control number 1512-0352)

Secs. 27.22-27.30 [Reserved]

#### Subpart D--Special (Occupational) Taxes

##### Sec. 27.31 Special (occupational) taxes.

Importers engaged in the business of selling liquors (whether distilled spirits, wine or beer) or offering liquors for sale, are subject to the provisions of Part 194 of the chapter relating to special (occupational) taxes. Part 194 requires that before commencing business the special tax registration and return, Form 5630.5, with payment of the tax, shall be filed with ATF in accordance with the instructions on the form. Subsequently, Form 5630.5 with tax shall be filed each year on or before July 1, as long as the proprietor continues in business.

(Sec 201, Pub. L. 85-859, 72 Stat. 1340 as amended, 1343 as amended, 1344 as amended (26 U.S.C. 5111, 5112, 5121, 5122))

##### Sec. 27.32 Warehouse receipts covering distilled spirits.

The sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits, and every person engaged in business as an importer of distilled spirits, who sells, or offers for sale, warehouse receipts for distilled spirits stored in customs bonded warehouses, or elsewhere, incurs liability for special tax as a dealer in liquors at the place where the warehouse receipts are sold or offered for sale, and must file a return and pay special tax as provided in Sec. 27.31.

(68A Stat. 618, 620, 621 (26 U.S.C. 5111, 5112, 5121, 5122))

Secs. 27.33-27.40 [Reserved]

Subpart E--Tax on Imported Distilled Spirits, Wine, and Beer

Distilled Spirits

Sec. 27.41 Distilled spirits.

(a) A tax is imposed on all distilled spirits in customs bonded warehouses or imported into the United States at the rate prescribed by 26 U.S.C. 5001 on each proof gallon and a proportionate tax at a like rate on all fractional parts of each proof gallon. All products of distillation, by whatever name known, which contain distilled spirits, are

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considered to be distilled spirits and are taxed as such. The tax will

be determined at the time of importation, or, if entered into customs bond, at the time of removal therefrom.

(b) A credit against the tax imposed on distilled spirits by 26

U.S.C. 5001 is allowable under 26 U.S.C. 5010 on each proof gallon of alcohol derived from eligible wine or from eligible flavors which do not exceed  $2\frac{1}{2}$  percent of the finished product on a proof gallon basis. The credit is allowable at the time tax is payable as if it constituted a reduction in the rate of tax.

(c) Where credit against the tax is desired, the person liable for the tax shall establish an effective tax rate in accordance with Sec. 27.42. The effective tax rate established will be applied to each entry.

Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001); Sec. 201, Pub. L. 85-859, 72 Stat. 1356, as amended (26 U.S.C. 5201); Sec 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

Sec. 27.42 Computation of effective tax rate.

(a) The proprietor shall compute the effective tax rate for distilled spirits containing eligible wine or eligible flavors as the ratio of the numerator and denominator as follows:

(1) The numerator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product

(exclusive of distilled spirits derived from eligible flavors),

multiplied by the tax rate prescribed by 26 U.S.C. 5001;

(ii) The wine gallons of each eligible wine used in the product,

multiplied by the tax rate prescribed by 26 U.S.C. 5041(b) (1), (2),

(3), as applicable; and

(iii) The proof gallons of all distilled spirits derived from

eligible flavors used in the product, multiplied by the tax rate

prescribed by 26 U.S.C. 5001, but only to the extent that such

distilled spirits exceed  $2\frac{1}{2}$  percent of the denominator prescribed

in paragraph (a)(2) of this section.

(2) The denominator will be the sum of:

(i) The proof gallons of all distilled spirits used in the product,

including distilled spirits derived from eligible flavors; and

(ii) The wine gallons of each eligible wine used in the product,

multiplied by twice the percentage of alcohol by volume of each,

divided by 100.

(b) In determining the effective tax rate, quantities of distilled

spirits, eligible wine, and eligible flavors will be expressed to the

nearest tenth of a proof gallon. The effective tax rate may be rounded

to as many decimal places as the proprietor deems appropriate, provided

that, such rate is expressed no less exactly than the rate rounded to

the nearest whole cent, and the effective tax rates for all products will be consistently expressed to the same number of decimal places. In such case, if the number is less than five it will be dropped; if it is five or over, a unit will be added.

(c) The following is an example of the use of the formula:

Batch Record

-----  
-----

Distilled spirits..... 2249.1 proof gallons.

Eligible wine (14% alcohol by volume)... 2265.0 wine gallons.

Eligible wine (19% alcohol by volume)... 1020.0 wine gallons.

Eligible flavors..... 100.9 proof gallons.

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[GRAPHIC] [TIFF OMITTED] TP05AU96.000

(Approved by the Office of Management and Budget under control number 1512-0352)

\* Proof gallons by which distilled spirits derived from eligible flavors exceed  $2\frac{1}{2}\%$  percent of the total proof gallons in the batch  $(100.9 - (2\frac{1}{2}\%) \times 3.371.8 = 16.6)$ .

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(Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

Sec. 27.43 Perfumes containing distilled spirits.

(a) Perfumes imported into the United States containing distilled spirits are subject to the internal revenue tax at the rate prescribed by 26 U.S.C. 5001 per wine gallon, and a proportionate tax at a like rate on all fractional parts of such wine gallon.

(b) This section does not apply to importations after December 31, 1994.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001))

Wine

Sec. 27.44 Wine.

(a) A tax is imposed by 26 U.S.C. 5041 on all wine imported into the United States at the rate prescribed in such section on each wine gallon and a proportionate tax at a like rate on all fractional parts of such wine gallon. Fractions of less than one-tenth gallon shall be converted to the nearest one-tenth gallon, and five-hundredths gallon shall be converted to the next full one-tenth gallon. The tax shall be determined at the time of importation, or, if entered into customs bond, at the time of removal therefrom for consumption or sale. All wine containing more than 24 percent of alcohol by volume shall be classed as distilled spirits and shall be taxed accordingly.

(b) Imported wine may contain added spirits and remain taxable as

wine under 26 U.S.C. 5041 provided:

- (1) Such spirits were added to increase the alcoholic content of the wine as part of an authorized fortification procedure and as a standard winemaking process in the country of origin; and
- (2) The alcoholic content of the wine is not increased to more than 24 percent by volume.

(72 Stat. 1331, as amended; 26 U.S.C. 5041)

Sec. 27.45 Still wine containing carbon dioxide.

Still wine may contain not more than 0.392 gram of carbon dioxide per 100 milliliters of wine; except that a tolerance to this maximum limitation, not to exceed 0.009 gram of carbon dioxide per 100 milliliters of wine, will be allowed where the amount of carbon dioxide in excess of 0.392 gram per 100 milliliters of wine was due to mechanical variations which could not be completely controlled under good commercial practices. Such tolerance

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will not be allowed where it is found that the limitation of 0.392 gram of carbon dioxide per 100 milliliters of wine is continuously or intentionally exceeded. The carbon dioxide contained in wine will be determined in accordance with authorized test procedures approved by the Director. Penalties are provided in 26 U.S.C. 5662 for any person who, whether by manner of packaging or advertising or by any other form

of representation, represents any still wine to be effervescent wine or a substitute for effervescent wine.

#### Liqueurs, Cordials, and Other Compounds and Preparations

##### Sec. 27.46 Liqueurs, cordials, and similar compounds.

A tax is imposed by 26 U.S.C. 5001 on all liqueurs, cordials, and similar compounds containing distilled spirits, in customs bonded warehouses or imported into the United States, at the rate prescribed in such section on each proof gallon, and a proportionate tax at a like rate on all fractional parts of such proof gallon. The tax shall be determined at the time of importation, or, if entered into customs bond, at the time of removal. Fortified or unfortified wine, containing not over 24 percent alcohol by volume, to which sweetening or flavoring materials, but no distilled spirits, have been added are not classified as liqueurs, cordials, or similar compounds, but are considered to be flavored wine only, and are subject to internal revenue tax at the rates applicable to wine.

(Sec. 201, Pub.L. 85-859, 72 Stat. 1314, as amended, 1331, as amended (26 U.S.C. 5001, 5041))

##### Sec. 27.47 Other compounds and preparations.

Compounds and preparations, other than those specified in

Sec. 27.46, containing distilled spirits, which are fit for beverage

purposes, in customs bonded warehouses or imported into the United States, are subject to internal revenue tax at the rates applicable to distilled spirits. Compounds and preparations containing fortified or unfortified wine, but no distilled spirits, which are fit for beverage purposes and which are sold as wine, are subject to internal revenue tax at the rates applicable to wine.

(68A Stat. 595, as amended, 609, as amended; 26 U.S.C. 5001, 5041)

## Beer

### Sec. 27.48 Rate of tax.

A tax is imposed by 26 U.S.C. 5051, on all beer imported into the United States, at the rate prescribed in such section, for every barrel containing not more than 31 gallons, and at a like rate for any other quantity or for the fractional parts of a barrel. The tax on beer shall be determined at the time of importation, or, if entered into customs bond, at the time of removal.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1333, as amended, 1334, as amended (26 U.S.C. 5051, 5054))

### Sec. 27.49 Computation of tax.

The tax on imported beer shall be computed on the basis of the actual quantity in a container, at the rate prescribed by law.

(72 Stat. 1333; 26 U.S.C. 5051)

## Collection of Internal Revenue Taxes

Sec. 27.50 Imported distilled spirits, wine, and beer.

Internal revenue taxes payable on imported distilled spirits, wine, and beer, are collected, accounted for, and deposited as internal revenue collections by directors of customs in accordance with customs requirements. However, the taxes on distilled spirits withdrawn from customs custody without payment of tax under the provisions of subpart I of this part and thereafter withdrawn from the bonded premises of a distilled spirits plant subject to tax, shall be collected and paid under the provisions of part 19 of this chapter.

(72 Stat. 1314, 1366; 26 U.S.C. 5001, 5232)

Sec. 27.51 Payment of tax by electronic fund transfer (EFT).

(a) General. (1) Each importer who was liable, during a calendar year, for a gross amount equal to or exceeding five million dollars in distilled spirits taxes combining tax liabilities incurred under this part and parts 19 and 250 of this chapter, a gross amount equal to exceeding five million dollars in wine taxes combining tax liabilities incurred under this part and parts 24 and 250 of this chapter, or a gross amount equal to or exceeding five million dollars in beer taxes combining tax liabilities incurred under this part and parts 25 and 250 of this chapter, shall use a commercial bank in making payment by electronic fund transfer (EFT), as defined in paragraph (c) of this

section, of such taxes during the succeeding calendar year. Payment of such taxes by cash, check, or money order is not authorized for an importer who is required, by this section, to make remittances by EFT. For purposes of this section, the dollar amount of tax liability is to be summarized separately for distilled spirits taxes, wine taxes, or beer taxes, and is defined as the gross tax liability on all taxable withdrawals from premises within the United States and importations (including products of the same tax class brought into the United States from Puerto Rico or the Virgin Islands) during the calendar year, without regard to any drawbacks, credits, or refunds, for all premises from which such activities are conducted by the taxpayer.

(b) For the purposes of this section, a taxpayer includes a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4, except the words ``at least 80 percent" shall be replaced by the words ``more than 50 percent" in each place it appears in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Also, the rules for a ``controlled group of corporations" apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50 percent control over a group consisting of corporations and one, or more, partnerships and/or sole proprietorships, all of the members of the controlled group

are one taxpayer for the purpose of determining who is required to make remittances by EFT.

(c) Electronic funds transfer (EFT) means any transfer of funds, other than a transaction originated by cash, check or similar paper instrument, that is initiated through an electronic terminal, telephone, computer or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes, but is not limited to, Fed Wire transfers, Automated Clearing House (ACH) transfers, transfers made at automatic teller machines (ATM) and Point-of-Sale (POS) terminals (to include use of the Government small purchase card), and other means of credit card transactions.

(d) An importer who is required by this section to make remittances by EFT, shall make the EFT remittance in accordance with the requirements of the U.S. Customs Service.

(e) Failure to request an electronic fund transfer message. The taxpayer is subject to a penalty imposed by 26 U.S.C. 5684, 6651, or 6656, as applicable, for failure to make a tax payment by EFT on or before the close of business on the prescribed last day for filing.

(Act of August 16, 1954, 68A Stat. 775, as amended (26 U.S.C. 6302); Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C.

5061))

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## Exemption of Certain Samples From Excise Taxes

Sec. 27.52 Commercial samples of alcoholic beverages.

Samples of distilled spirits, wine, and beer, to be used in the United States by persons importing alcoholic beverages in commercial quantities are, subject to the limitations in this section, exempt from the payment of any internal revenue tax imposed on, or by reason of, importation. This exemption applies only to samples to be used for soliciting orders for products of foreign countries. In no case shall this exemption apply to more than one sample of each alcohol beverage product admitted during any calendar quarter for the use of each such person. No sample of beer shall contain more than 300 milliliters, no sample of wine shall contain more than 150 milliliters, and no sample of distilled spirits shall contain more than 100 milliliters.

(76 Stat. 72, as amended; 19 U.S.C. 1202)

Secs. 27.53-27.60 [Reserved]

## Subpart F--General Requirements

Permit for Importation of Distilled Spirits, Wine and Malt Beverages or Beer

Sec. 27.61 Federal Alcohol Administration Act permit.

Under the Federal Alcohol Administration Act and the regulations

issued pursuant thereto, (27 CFR part 1) any person, except an agency of a State or political subdivision thereof, or any officer or employee of any such agency, intending to engage in the business of importing distilled spirits, wine or malt beverages (including beer and cereal beverages) for nonindustrial use is required to procure an importer's basic permit.

(49 Stat. 978, as amended; 27 U.S.C. 203)

#### Certificate of Origin

Sec. 27.62 Certificate of origin for distilled spirits and wine.

(a) Distilled spirits (for nonindustrial use) imported in bottles shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of age and origin when required by 27 CFR 5.52.

(b) Imported wine (which contains 7 percent or more alcohol by volume and not more than 24 percent alcohol by volume) shall not be released from customs custody for consumption unless the invoice is accompanied by a certificate of origin and identity when required by 27 CFR 4.45.

#### Packaging and Marking of Distilled Spirits

Sec. 27.63 Distilled spirits containers of a capacity of not more than 1 gallon (3.785 liters).

Except as provided in Sec. 27.74, bottled distilled spirits imported into the United States for sale shall be in liquor bottles which conform to the requirements of subpart K of this part and part 5 of this chapter. Such liquor bottles shall bear closures as described in Secs. 27.72 and 27.73. Empty bottles imported for the packaging of distilled spirits shall conform to the requirements of subpart K of this part. (For customs marking requirements, see 19 CFR parts 11 and 12.)

Sec. 27.64 Distilled spirits containers in excess of 1 gallon (3.785 liters).

Imported containers of distilled spirits in excess of 1 gallon are required to be marked in accordance with customs regulations (19 CFR parts 11 and 12).

#### Labeling of Distilled Spirits

Sec. 27.65 Containers of 1 gallon (3.785 liters) or less.

(a) All imported distilled spirits in bottles are required to be labeled in conformity with the Federal Alcohol Administration Act and regulations issued pursuant thereto (27 CFR part 5), before they are removed from customs custody. Labels on imported containers of distilled spirits, and on containers of distilled spirits bottled in customs custody, are required to be covered by a certificate of label approval, ATF Form 5100.31, issued pursuant to part 5 of this chapter.

(b) Containers of imported distilled spirits bottled after tax payment and removal from customs custody are required to be covered by a certificate of label approval or a certificate of exemption from label approval, ATF Form 5100.31 issued pursuant to part 5 of this chapter.

(c) When imported distilled spirits are labeled under a certificate of exemption from label approval, the labels affixed to containers are required to conform to the provisions of part 19 of this chapter.

#### Labeling and Marking of Wine and Malt Beverages or Beer

Sec. 27.66 Wine containing from one-half of one percent to less than 7 percent alcohol by volume.

Wine containing from one-half of one percent to less than 7 percent alcohol by volume which is imported in bottles shall be labeled, prior to removal from customs custody, under regulations administered by the United States Food and Drug Administration. In addition, the IRC requires that the labels shall, as a minimum, reflect the kind of wine (class and type), alcoholic content, net content, and indicate whether effervescent wine is sparkling or carbonated. Imported containers of wine are also required to be marked, branded and labeled in accordance with customs regulations (19 CFR parts 11 and 12).

Sec. 27.67 Wine containing 7 percent to 24 percent alcohol by volume.

“Wine,” in this section, refers in all cases to wine containing not less than 7 percent and not more than 24 percent of alcohol by volume.

(a) All imported bottled or packaged wine is required to be packaged, marked, branded, and labeled in conformity with the Federal Alcohol Administration Act and regulations issued pursuant thereto in 27 CFR part 4 before they are removed from customs custody. Labels on imported containers of wine are required to be covered by a certificate of label approval, ATF Form 5100.31, issued pursuant to part 4 of this chapter.

(b) Containers of imported wine bottled or packaged after tax payment and removal from customs custody are required to be covered by a certificate of label approval, ATF Form 5100.31, or a certificate of exemption from label approval, ATF Form 5100.31, issued pursuant to the regulations in 27 CFR part 4. The label on such wine must conform with 27 CFR part 24.

(c) Imported containers of wine must also be marked, branded and labeled in accordance with customs regulations (19 CFR parts 11 and 12).

Sec. 27.68 Mixtures of wine and distilled spirits.

(a) Imported wine which contains distilled spirits in accordance with the provisions of Sec. 27.44(b) shall be labeled as wine.

(b) Imported wine which contains distilled spirits other than in accordance with Sec. 27.44(b) shall be labeled as distilled spirits.

Sec. 27.69 Malt Beverages (Beer).

All imported malt beverages (including beer and cereal beverages) must conform with the provisions of the Federal Alcohol Administration Act and regulations issued pursuant thereto in 27 CFR part 7 upon release from customs custody. In addition, labels on containers of cereal beverages shall bear the phrase ``Nontaxable under Section 5051 I.R.C.". Imported containers of malt beverages are also required to be marked and labeled in accordance with customs regulations (19 CFR parts 11 and 12).

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Alcoholic Beverage Health Warning Statement

Sec. 27.70 Containers of imported alcoholic beverages to bear health warning statement.

On and after November 18, 1989, no person shall import for sale or distribution in the United States any alcoholic beverage unless the container of such beverage bears the health warning statement required by part 16 of this chapter, in conformity with the requirements prescribed by that part. The alcoholic beverage health warning statement is required on the labels of all containers (as defined in

Sec. 16.10 of this chapter) of alcoholic beverages for sale or distribution. Sale and distribution includes sampling or any other distribution not for sale. This requirement does not apply to alcoholic beverages that were bottled in the foreign country prior to November 18, 1989.

#### Use of Another Importer's Certificate of Label Approval

Sec. 27.71 Use of certificates of label approval by other importers.

(a) An importer may use certificates of label approval to release distilled spirits, wine or malt beverages or beer from customs custody only if such certificates are issued in that importer's name, except that such products may be released from customs custody upon presentation of a certificate of label approval by an importer who is not the owner of the certificate of label approval if all of the following 3 conditions are met:

- (1) The certificate owner has authorized such use.
- (2) Each bottle or individual container bears the name or trade name and address of the certificate owner.
- (3) The certificate owner maintains records of the companies authorized by such owner to use the certificate.

(b) The certificate owner is considered to have granted authorization to use a label approval to another importer if either:

- (1) The certificate owner's name or trade name appears in the

sales-in-transit invoice required by 19 CFR 141.86(c) or other invoice such as the bill of lading or in other shipping documents, such as the bill of lading, pertaining to an importation; or

(2) The certificate owner has granted such authorization, by letter, to the importer.

#### Closures for Containers of Distilled Spirits

Sec. 27.72 Containers of distilled spirits to bear closures or other devices.

No person shall transport, buy, possess, sell, or transfer any imported distilled spirits in containers of 1 gallon (3.785 liters) or less, unless the immediate containers of distilled spirits withdrawn from bonded premises or customs custody, on determination of tax, bears a closure or other device affixed in accordance with the provisions of this part.

(Sec. 454, Pub. L. 98-369. 98 Stat. 494 (26 U.S.C. 5301))

Sec. 27.73 Criteria for closures or other devices, and marks appearing thereon.

(a) Closures or other devices on containers of imported distilled spirits which have been tax determined, having a capacity of 1 gallon (3.785 liters) or less shall be constructed so that such closures or other devices must be broken or torn in order to gain access to the

contents in such a manner giving visual evidence to the consumer that the container has been opened and cannot be resealed again to appear unopened.

(b) Closures or other devices need bear no letter or design; however, if a closure or other device bears any lettering or design which was not approved for use on such closure or other device as part of the certificate of label approval, ATF Form 5100.31, or which does not appear on a label used in connection with a closure or device, then such lettering or design is required to be approved for use by the Director in response to a letterhead application from the importer. Such application shall contain a copy of the lettering or design which is to appear on the closure or other device and identify the label or labels with which such closures or other devices will be used.

#### Exemptions

Sec. 27.74 Exemption from requirements pertaining to marks, bottles, and labels.

(a) The provisions of this part pertaining to closures, the requirements for containers prescribed by subpart K of this part, and the labeling of containers as prescribed by part 5 of this chapter are not applicable to imported distilled spirits.

(1) Not for sale or for any other commercial purpose whatever;

(2) On which no internal revenue tax is required to be paid or

determined on or before withdrawal from customs custody;

(3) For use as ship supplies; or

(4) For personal use.

(b) Distilled spirits or wine withdrawn from customs bond solely for the use of foreign embassy personnel, the foreign diplomatic corps, members of the armed forces of foreign countries on active duty in the United States or certain other persons are not subject to excise taxes, labeling, liquor bottle or closure regulations. The United States Customs Service determines whether a person is a qualified person entitled to tax-exempt withdrawal under this subsection.

(c) Exemptions from the requirement that imported distilled spirits, wine and malt beverages (beer) be marked to indicate the country of origin are set forth in customs regulations (19 CFR part 11.)

(d) The health warning statement in part 16 of this chapter is required on labels of all containers sold or distributed.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended, 1374, as amended (26 U.S.C. 5301)

Sec. 27.75 Imported samples of distilled spirits, wine and beer.

(a) Samples of distilled spirits, wine and beer in containers of not more than 1.75 liters, imported solely for organoleptic testing,

quality control testing, research and product development testing, and not for sale or for use in the manufacture or production of any article for sale, shall be exempt from any requirements relating to marks, bottles, labels and standards of fill. However, the health warning statement in part 16 of this chapter is required on labels of all containers of imported samples.

(b) Samples imported for the purposes indicated above shall not be exempt from the payment of any internal revenue tax or duty imposed on, or by reason of, importation, or from the provisions in this part pertaining to closures.

(c) Samples of distilled spirits imported for any purposes not described above, with the exception of those samples of distilled spirits provided for in Sec. 27.52 or Sec. 27.74, are not exempt from the requirements pertaining to closures, marks, bottles and labels. Samples of wine, distilled spirits or beer brought into the United States pursuant to Sec. 27.52 or Sec. 27.74 are exempt from the labeling requirements of parts 4, 5 and 7 of this chapter, respectively.

(d) Samples of alcoholic beverages imported for display and taste testing at trade fairs (as defined in the Trade Fair Act of 1959, 19 U.S.C. Chapter 6) are exempt from any requirements relating to closures, marks, bottles, labels, and standards of fill.

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## Wine and Flavors Content of Distilled Spirits

Sec. 27.76 Approval and certification of wine and flavors content.

(a) Any person, who imports into the United States distilled spirits on which the tax is to be paid or determined at an effective tax rate based in whole, or in part, on the alcohol content derived from eligible wine or eligible flavors which have not been previously approved on ATF Form 5530.5 (1678) shall, before the first tax determination at that rate, request and receive a statement of eligibility for each wine or flavor to be used in the computation of the effective tax rate.

(b) To receive a statement of eligibility, the importer shall cause to be submitted to the ATF National Laboratory, 1401 Research Boulevard, Attn: NBA, Rockville, Maryland 20850, the following:

- (1) The kind (class and type) of the distilled spirits product to which the request applies;
- (2) An 8-ounce sample of each distilled spirits, wine and flavor contained in the product; and
- (3) A statement of composition for the wine and flavors listing--
  - (i) For wine, the kind (class and type) and percentage of alcohol by volume (if stated as a range, the entire range must be within one

tax class); and

(ii) For flavors, the name and percentage of alcohol by volume, and the name and quantity of each ingredient used in the manufacture of the flavor.

Sec. 27.77 Certificate of effective tax rate computation.

(a) Each time distilled spirits containing eligible wine or eligible flavors are imported into the United States (unless a standard effective tax rate has been approved under Sec. 27.78) the importer shall prepare a certificate of effective tax rate computation showing the following:

(1) Name, address, and permit number of the importer;

(2) Kind (class and type) of product;

(3) Elements necessary to compute the effective tax rate in accordance with Sec. 27.42 as follows--

(i) Proof gallons of distilled spirits (exclusive of distilled spirits derived from eligible flavors);

(ii) Wine gallons of each eligible wine and the percentage of alcohol by volume of each; and

(iii) Proof gallons of distilled spirits derived from eligible flavors;

(4) The date of the statement of eligibility of each eligible wine and of each eligible flavor;

(5) Effective tax rate applied to the product; and

(6) Signature of the importer or other duly authorized person under the following declaration:

I declare under the penalties of perjury that this certificate of effective tax rate computation has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.

(b) The importer shall file the certificate of effective tax rate computation with the port director of customs at the port of entry, at the time of entry summary, or, for distilled spirits to be withdrawn from customs custody under the provisions of subpart K of this part, and attach it to the transfer record required by Sec. 27.132.

(Approved by the Office of Management and Budget under control number 1512-0352)

(Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

Sec. 27.78 Standard effective tax rate.

(a) In lieu of preparing a certificate of effective tax rate computation each time distilled spirits containing eligible wine or eligible flavors are imported as prescribed in Sec. 27.77, an importer may have a standard effective tax rate established. The standard effective tax rate shall be equal to the highest effective tax rate that may be applicable to the product within the range of possible

manufacturing variations.

(b) To have a standard effective tax rate established, the importer shall cause to be submitted to the ATF National Laboratory, 1401 Research Boulevard, Rockville, MD 20850, the following:

(1) The samples and information prescribed in Sec. 27.76(b);

(2) An 8-ounce sample of the finished product;

(3) A statement of composition for the finished product listing the--

(i) Name of the product;

(ii) The least quantity, minimum alcohol content (percentage of alcohol by volume), and kind (class and type) of each eligible wine;

(iii) The least quantity, minimum alcohol content (percentage of alcohol by volume), and the name of each eligible flavor used in the manufacture of the product; and

(iv) Standard effective tax rate for the product computed in accordance with Sec. 27.42, based on the least quantity and the lowest alcohol content of eligible wine or eligible flavors used in the manufacture of the product.

(c) Where a standard effective tax rate has been previously approved for a product, an importer, other than the person to whom the approval was issued, may use the approved rate in accordance with the following procedure: The importer shall obtain a copy of the approval

from the person to whom it was issued and, over the signature of the importer or other duly authorized person, place the following declaration.

I declare under the penalties of perjury that this approval has been examined by me and, to the best of my knowledge and belief, the standard effective tax rate established for this product is applicable to all like products contained in this shipment.

(d) A standard effective tax rate may not be employed until approved by the ATF National Laboratory, 1401 Research Boulevard, Attn: NBA, Rockville, Maryland 20850. At the time of importation, the importer shall file with the port Director of Customs, or attach a copy to the transfer record, a copy of the standard effective tax rate approval in the manner prescribed in 27.77(b). The use of a standard effective tax rate shall not relieve an importer from the payment of any tax found to be due. The Director may at any time require an importer to immediately discontinue the use of a standard effective tax rate.

(Approved by the Office of Management and Budget under control Number 1512-0352)

(Sec. 6, Pub. L. 96-598, 94 Stat. 3488, as amended (26 U.S.C. 5010))

Secs. 27.79-27.80 [Reserved]

Subpart G-H--[Reserved]

Secs. 27.81-27.110 [Reserved]

Subpart I--Importation of Distilled Spirits, Wine and Beer in Bulk

Sec. 27.111 Distilled spirits containers.

Imported distilled spirits for nonindustrial use may be bottled only in containers conforming to the provisions of subpart M of this part.

(72 Stat. 1374; 26 U.S.C. 5301)

Sec. 27.112 Persons authorized to receive distilled spirits imported in bulk.

Distilled spirits for nonindustrial use which are imported in bulk (i.e., in containers having a capacity in excess of 1 gallon (3.785 liters)) may be entered into a class 8 Customs bonded warehouse for bottling, or may be withdrawn in bulk from Customs custody, only if entered for exportation or if withdrawn by a person to whom it is lawful to sell or otherwise dispose of distilled spirits in bulk pursuant to the Federal Alcohol Administration Act and regulations issued pursuant thereto (27 CFR part 1). The importation and disposition of distilled spirits imported in bulk shall be reported as prescribed by Secs. 27.121 and 27.122.

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(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1361, 1374, 1395, (26

U.S.C. 5114, 5207, 5301, 5555))

Sec. 27.113 Persons authorized to receive wine imported in bulk.

Bulk wine for nonindustrial use may be imported in containers in accordance with the provisions of 27 CFR parts 4 and 24. The importation and disposition of wine imported in bulk shall be reported as prescribed by Secs. 27.121 and 27.122.

Sec. 27.114 Persons authorized to receive beer imported in bulk.

Bulk beer may be imported in containers under the provisions of 27 CFR parts 7 and 25. The importation and disposition of beer imported in bulk shall be reported as prescribed by Secs. 27.121 and 27.122.

Secs. 27.115-27.120 [Reserved]

## Subpart J--Importer's Record and Reports

### Record and Report of Imported Liquors

Sec. 27.121 General requirements.

(a) Except as provided in Sec. 27.122, every importer who imports distilled spirits, wine, or beer shall keep such records and render such reports of the physical receipt and disposition of such liquors as are required to be kept by a wholesale or retail dealer, depending upon whether the importer is selling as a wholesaler or retailer, under the provisions of part 194 of this chapter.

(b) Any importer who does not take physical possession of the

liquors at the time of, but is responsible for, their release from customs custody shall keep commercial records reflecting such release. Such records shall identify the kind and quantity of the liquors released, the name and address of the person receiving the liquors from customs custody, and the date of release. These records may be maintained in any system of filing the importer chooses provided the required information is readily available for examination by ATF officers.

(c) Importers who have obtained certificates of label approval shall maintain the originals of such certificates, if in active use, on file at the premises covered by the importer's basic permit for a period of not less than 3 years following the last importation of products covered by such certificates.

(d) Importers who have obtained certifications of label approval and are no longer using such certificates shall, after 3 years following the last importation using such certificate, submit the original certificate and any copies of such certificate should be submitted to the Product Compliance Branch, 650 Massachusetts Avenue, NW, Washington, DC 20226, for cancellation. A letter from the importer should accompany the certificates of label approval requesting that the attached certificates be cancelled.

(e) Records of receipt and disposition, as required under

paragraphs (a) or (b) of this section, shall be filed at the premises covered by the importer's basic permit not later than one business day following the date of transaction.

(f) Records and reports will not be required under this part with respect to liquors while in customs custody.

(72 Stat. 1342, 1345, 1395; 26 U.S.C. 5114, 5124, 5555)

Sec. 27.122 Proprietors of qualified premises.

Importing operations conducted by proprietors of premises qualified under the provisions of this chapter shall be recorded and reported in accordance with the regulations governing the operations of each such premises.

(72 Stat. 1342, 1361, 1395; 26 U.S.C. 5114, 5207, 5555)

Filing and Retention of Records and Reports

Sec. 27.123 Filing.

(a) All records and reports required by this part shall be maintained separately, by transaction or reporting date, at the premises covered by the importer's basic permit. The regional director (compliance) may, pursuant to an application, authorize an importer to maintain files or an individual record at another business location under the control of the importer, if the alternative location does not cause undue inconvenience to ATF or customs officers desiring to

examine the files, or delay in the timely submission of documents.

(b) If an importer conducts wholesale operations, one legible copy of each required record of receipt and disposition shall be filed not later than one business day following the date of transaction.

(c) If an importer conducts only retail operations, they may maintain either loose-leaf or book records of the daily receipt of liquors which contain all the required information.

(d) Supporting documents, such as consignors' invoices, delivery receipts, bills of lading, etc., or exact copies of the same, may be filed in accordance with the importer's regular accounting and recordkeeping practices.

(e) Customs will release shipments to importers when the certificate of label approval (COLA), ATF F 5100.31, is presented by the responsible importer. Customs date stamps the COLA with the actual release date. When additional shipments of the same products arrive at the port of entry, importers shall exclusively either use the original COLAs or a copy of the COLA without the release date on it, in order to obtain release of such additional shipments.

(Approved by the Office of Management and Budget under control number 1512-0352)

(Sec. 201, Pub. L. 85-859, 72 Stat. 1342, as amended, 1395, as amended (26 U.S.C. 5114, 5555))

Sec. 27.124 Retention.

(a) All records required by this part, documents or copies of documents supporting these records, and file copies of reports required by this part to be submitted to the regional director (compliance) or to the port director of customs, shall be retained for not less than three years.

(b) During this period the records shall be available, during business hours, for inspection and copying by ATF or customs officers. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for inspection and copying.

(c) The regional director (compliance) may require these records to be kept for an additional period of not more than three years in any case where he or she determines such retention necessary or advisable.

(72 Stat. 1342, 1345, 1361, 1395; 26 U.S.C. 5114, 5124, 5207, 5555)

Other Records

Sec. 27.125 Transfer record.

The transfer record for imported distilled spirits prescribed in Sec. 27.132 shall show the following information:

(a) Date prepared;

(b) Serial number of the transfer record, beginning with ``1" each

January 1;

(c) Name and distilled spirits plant number of the proprietor who received the spirits from customs custody;

(d) Country of origin;

(e) Name of foreign producer;

(f) Class and type of spirits

(g) Age, in years, months and days of the spirits;

(h) Proof of the spirits;

(i) Type and number of containers; and

(j) Proof gallons of spirits in the shipment.

(Approved by the Office of Management and Budget under control number 1512-0250).

Sec. 27.126 Package gauge record.

When required in this part, a package gauge record shall be prepared to show:

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(a) The date prepared;

(b) The related transaction record and its serial number; and

(c) For each package:

(1) Package identification or serial number;

(2) Class and type of spirits

(3) Gross weight;

(4) Proof;

(5) Proof gallons;

(6) Name of warehouseman who received the spirits from customs custody; and

(7) Name of importer.

(Approved by the Office of Management and Budget under control number 1512-0250)

Secs. 27.127-27.130 [Reserved]

#### Subpart K--Transfer of Distilled Spirits From Customs Custody to Bonded Premises of Distilled Spirits Plant

Sec. 27.131 General provisions.

(a) Imported distilled spirits in bulk containers may, under the provisions of this subpart, be withdrawn by the proprietor of a distilled spirits plant from customs custody and transferred in such bulk containers or by pipelines to the bonded premises of the distilled spirits plant without payment of the internal revenue tax imposed on imported spirits by 26 U.S.C. 5001. Imported spirits so withdrawn and transferred to a distilled spirits plant:

(1) May be redistilled or denatured only if of 185 degrees or more of proof, and

(2) May be withdrawn from internal revenue bond for any purpose

authorized by 26 U.S.C. Chapter 51, in the same manner as domestic distilled spirits.

(b) Imported distilled spirits transferred from customs custody to the bonded premises of a distilled spirits plant under the provisions of this subpart shall be received and stored thereat, and withdrawn or transferred therefrom, subject to the applicable provisions of 27 CFR part 19. The person operating the distilled spirits plant receiving the imported spirits shall become liable for the tax on distilled spirits withdrawn from customs custody under 26 U.S.C. 5232. Upon release of the spirits from customs custody, the importer shall then be relieved of liability for such tax.

(Sec. 3, Pub. L. 90-630, 82 Stat. 1328, as amended 26 U.S.C. 5232))

Sec. 27.132 Preparation of transfer record and package gauge record.

The person importing spirits under this subpart shall prepare a transfer record according to Sec. 27.125. A separate transfer record shall be prepared for each conveyance. If the spirits are in packages he/she shall prepare a package gauge record according to Sec. 27.126 and attach it to the transfer record. If the spirits are subject to an effective tax rate based on the alcohol content eligible for 5010 credit, either the certificate of effective tax rate computation prescribed by Sec. 27.77 or a copy of the approved standard effective tax rate issued under Sec. 27.78 shall be attached to the transfer

record. The transfer record and appropriate attachments shall be prepared in triplicate and, upon release of the spirits from customs custody, dispersed in the following method:

- (a) the original will be forwarded to the consignee;
- (b) one copy will be given to the customs officer or proprietor of the customs bonded warehouse, whichever is appropriate;
- (c) the final copy will be retained as part of the importer's records.

(Approved by the Office of Management and Budget control number 1512-0250)

Sec. 27.133 Inspection and release.

(a) Transfer from customs custody without being deposited in a customs bonded warehouse. Imported spirits shall be released from customs custody under procedures administered by the U.S. Customs Service. The transfer record presented to the proprietor of the distilled spirits plant shall reflect (in addition to the information required by Sec. 27.125) the amount of spirits transferred to such plant, the port of entry, carrier identification, applicable rate of duty, and serial number of any customs seals affixed to bulk conveyances.

(b) Transfer from customs bonded warehouse. (1) The proprietor of

the customs bonded warehouse shall not release distilled spirits under this subpart until the proprietor receives from the importer a transfer record, if the spirits are in a bulk conveyance, or a package gauge record and a transfer record, if the spirits are in packages. The proprietor will enter the elements of the gauge on the appropriate record and will also enter on the transfer record the port of entry, carrier identification, warehouse entry number, applicable rate of duty, and serial number of any customs seals affixed to bulk conveyances.

(2) When all customs requirements are complied with, the proprietor of the customs bonded warehouse shall release the spirits for transfer to the distilled spirits plant by dating and signing on the transfer record with his title and the statement:

``To the best of my knowledge the information herein is accurate and the spirits are released."

The original of the transfer record with any attachments shall be retained by the consignee.

(Sec. 3, Pub. L. 90-630, 82 Stat. 1328, as amended (26 U.S.C. 5232))

Sec. 27.134 Sealing of bulk conveyances.

Whenever a shipment of distilled spirits is made from customs custody to the distilled spirits plant in a tank car or tank truck, all openings affording access to the spirits shall be sealed under customs

supervision in accordance with customs procedures in such manner as will prevent unauthorized removal of spirits through such openings without detection.

(72 Stat. 1314, 1322, 1366; 26 U.S.C. 5001, 5007, 5232)

Sec. 27.135 Receipt by consignee.

Proprietors of distilled spirits plants who receive imported spirits under this subpart shall follow the requirements in 27 CFR part 19 for spirits received by transfer in bond.

Secs. 27.136-27.140 [Reserved]

Subpart L--Withdrawal of Imported Distilled Spirits From Customs Custody Free of Tax for Use of the United States

Sec. 27.141 General.

The United States or any of its Government agencies may, upon filing proper customs entry, withdraw imported distilled spirits free of tax from customs custody, for non-beverage purposes as authorized by 26 U.S.C. 5313 and under the provisions of this subpart. Before any distilled spirits may be withdrawn, a permit to procure the spirits shall be obtained from the Director. A bond is not required for any Government agency to procure and withdraw spirits free of tax under this subpart. The provisions of subpart N of part 22 of this chapter cover the withdrawal of domestically produced tax-free spirits for use

of the United States or any of its Government agencies.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1372, as amended, 1375, as amended (26 U.S.C. 5273, 5313))

Sec. 27.142 Application and permit, Form 5150.33.

(a) General. All permits previously issued to the United States or any of its Government agencies on Form 1444 shall remain valid and will be regulated by the same provisions of this subpart which refer to permits on Form 5150.33.

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(b) Application. (1) A Government agency of the United States shall apply to the Director for a permit to procure and withdraw spirits free of tax on Form 5150.33. Upon approval by the Director, Form 5150.33 will be returned to the agency.

(2) If a Government agency intends to withdraw spirits free of tax under this part and part 22 of this chapter, Form 5150.33 may be annotated to cover both types of withdrawals.

(3) A separate permit is not required for each port of entry. The application, Form 5150.33, may be completed to indicate the applicable ports of entry in which spirits will be withdrawn from customs custody.

(4) A Government agency may specify on its application that it desires a single permit authorizing all sub-agencies under its control to procure and withdraw spirits free of tax under this subpart and

subpart N of part 22 of this chapter; or, each Government location may individually file an application for a permit, Form 5150.33.

(5) Each application for a permit shall be signed by the head of the agency or sub-agency, or the incumbent of an office which is authorized by the head of the agency or sub-agency, to sign. Evidence of authorization to sign on behalf of the head of an agency or sub-agency shall be furnished with the application.

(c) Use of spirits. Spirits withdrawn under this subpart may not be used for non-Government purposes.

(d) Cancellation of permit. All permits on Form 5150.33 and previous editions on Form 1444 shall remain in force until surrendered or canceled. Upon surrender or cancellation, the Government agency shall obtain and destroy all photocopies of the permit furnished to district directors of customs, and forward the original to the Director for cancellation.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

Sec. 27.143 Use of permit, Form 5150.33.

Each Government agency shall retain the original of its permit, Form 5150.33, on file until such time as such permit is surrendered or cancelled. When filing an initial customs entry to withdraw spirits

free of tax from a port of entry, the agency shall furnish a photocopy of its permit to the district director of customs for retention. In the case of an agency holding a single permit for use of its sub-agencies, an attachment to the permit shall list all locations authorized to withdraw spirits free of tax from customs custody. Any subsequent requests for customs entry from the same port shall refer to the permit number.

(Sec. 201 Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

#### Sec. 27.144 Entry documents.

Entry documents for importation of tax-free spirits under this subpart shall record the serial numbers or other identifying numbers of the containers and the total quantity in proof gallons of the spirits to be entered.

#### Sec. 27.145 Customs release.

(a) Upon receipt of appropriate customs entry and a photocopy of a permit, Form 5150.33 or previous editions on Form 1444, the port director of customs shall, following an inspection of the shipment, release spirits free of tax to the Government agency named on the permit, or attachment thereto.

(b) Customs officers shall not release spirits for shipment until the shipment has been inspected for losses in transit. If it appears

that a container or containers have sustained losses in transit, the customs officers shall gauge the damaged container and prepare a package gauge record for the entire shipment, according to Sec. 27.126.

A copy of the package gauge record will be retained for the customs files and the original forwarded to the consignee agency.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1375, as amended (26 U.S.C. 5313)

Secs. 27.146-27.150 [Reserved]

#### Subpart M--Requirements For Liquor Bottles

Sec. 27.151 Scope of subpart.

The provisions of this subpart shall apply only to liquor bottles having a capacity of 200 ml or more, except where expressly applied to liquor bottles of less than 200 ml capacity.

Sec. 27.152 Standards of fill.

Distilled spirits imported into the United States in containers of 1 gallon (3.785 liters) or less for sale shall be imported only in liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the applicable standards of fill provided in Sec. 5.47a of this chapter. Empty liquor bottles, including liquor bottles of less than 200 ml capacity, which conform to the provisions of part 19, or subpart E of part 5 of this chapter, may be imported for

packaging distilled spirits in the United States as provided in part 19 of this chapter.

Sec. 27.153 Distinctive liquor bottles.

(a) Application. Liquor bottles of distinctive shape or design, including bottles of less than 200 ml. capacity, may be imported by an importer (filled bottles) or a bottler (empty bottles). For filled bottles, the importer shall submit Form 5100.31 to the Director for bottle approval prior to importation of such bottles into the United States. For empty bottles, the bottler shall obtain approval from the Director on Form 5100.31 prior to using the bottles. The importer or bottler, as applicable, shall certify as to the total capacity of a representative sample bottle before closure (expressed in milliliters) on each copy of the form. In addition, the applicant shall affix a readily legible photograph of the bottle (both front and back) to the front of each copy of Form 5100.31 along with the label(s) to be used on the bottle. The applicant shall not submit an actual bottle or an authentic model unless specifically requested to do so.

(b) Approval or Disapproval. Properly submitted Form 5100.31 to import distinctive liquor bottles (filled or empty) which have been imported shall be approved provided such bottles are found by the Director to:

(1) Meet the requirements of 27 CFR part 5;

- (2) Be other than a standard liquor bottle (distinctive);
- (3) Be suitable for their intended purpose;
- (4) Not jeopardize the revenue; and
- (5) Not be deceptive to the consumer. If Form 5100.31 is disapproved, the applicant shall be notified by the Director of the reasons for disapproval.

(c) Maintenance and Use of Approved Copy. The applicant shall keep a copy of the approved Form 5100.31, including an approved photograph of the distinctive liquor bottle (both front and back), on file at the applicant's premises. The applicant importer is responsible for furnishing a copy of the approved Form 5100.31, including a photograph of the distinctive liquor bottle, to customs officials at each affected port of entry where the merchandise is examined.

(Sec 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

Sec. 27.154 Bottles not constituting approved containers.

The Director is authorized to disapprove any bottle, including a bottle of less than 200 ml capacity, for use as a liquor bottle which is determined to be deceptive. The customs officer at the port of entry shall deny entry of any such bottle containing distilled spirits upon advice from the Director that such bottle is not an approved container

for

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distilled spirits for consumption in the United States.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1374, as amended (26 U.S.C. 5301))

Sec. 27.155 Bottles to be used for display purposes.

Empty liquor bottles may be imported and furnished to liquor dealers for display purposes, provided each bottled is marked to show that it is to be used for such purpose. The importer shall keep records of the receipt and disposition of such bottles, showing the names and addresses of consignees, dates of shipment, and size, quantity, and description of such bottles.

(Approved by the Office of Management and Budget under control number 1512-0352)

Sec. 27.156 Used liquor bottles.

The Director may, pursuant to letterhead application, authorize an importer to receive liquor bottles assembled for the importer as provided in Sec. 194.263 of this chapter. Used liquor bottles so received may be stored at any suitable location pending exportation for reuse. The importer shall keep records of the receipt and disposition of used liquor bottles.

(Approved by the Office of Management and Budget under control

number 1512-0352)

Secs. 27.157-27.160 [Reserved]

## PART 70--PROCEDURE AND ADMINISTRATION

Par. 29. The authority citation for part 70 continues to read as follows:

Authority: 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5146, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331-6343, 6401-6404, 6407, 6416, 6423, 6501-6503, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656, 6657, 6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406, 7423, 7424, 7425, 7426, 7429, 7430, 7432, 7502, 7503, 7505, 7506, 7513, 7601-7606, 7608-7610, 7622, 7623, 7653, 7805.

Par. 30. Section 70.411(c)(27) is revised to read as follows:

Sec. 70.411 Imposition of taxes, qualification requirements, and regulations.

\* \* \* \* \*

(c) \* \* \*

(27) Importation of liquors. Part 27 of Title 27 CFR contains the

substantive and procedural requirements relative to the importation of distilled spirits, wine, and beer into the United States from foreign countries including special (occupational) and commodity taxes, permits, marking, branding, and labeling of containers and packages.

\* \* \* \* \*

## PART 250--LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Par. 31. The authority citation for Part 250 continues to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5081, 5111, 5112, 5114, 5121, 5122, 5124, 5131-5134, 5141, 5146, 5207, 5232, 5271, 5276, 5301, 5314, 5555, 6001, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

Sec. 250.112a [Amended]

Par. 32. In Sec. 250.112a remove the number ``251" and add in its place the number ``27" in the following places.

(a) Section 250.112a(a)(1)

(b) Section 250.112a(b)(1)

(c) Section 250.112a(b)(3)

Par. 33. In Sec. 250.136, the undesignated paragraph is redesignated as paragraph (a) and paragraph (b) is added to read as

follows:

Sec. 250.136 Affixing closures.

(a) \* \* \*

(b) Closures or other devices need bear no letter of design;

however, if a closure or other device bears any lettering or design which was not approved for use on such closure or other device as part of the certificate of label approval (COLA), ATF Form 5100.31, or which does not appear on a label used in connection with a closure or device, then such lettering or design is required to be approved for use by the Director in response to a letterhead application from the importer. Such application shall contain a copy of the lettering or design which is to appear on the closure or other device and identify the label or labels with which such closures or other devices will be used as provided in section 27.73(b).

Par. 34. In Sec. 250.231, the undesignated paragraph is redesignated as paragraph (a) and paragraph (b) is added to read as follows:

Sec. 250.231 Affixing closures.

(a) \* \* \*

(b) Closures or other devices need bear no letter or design;

however, if a closure or other device bears any lettering or design

which was not approved for use on such closure or other device as part of the certificate of label approval (COLA), ATF Form 5100.31, or which does not appear on a label used in connection with a closure or device, then such lettering or design is required to be approved for use by the Director in response to a letterhead application from the importer. Such application shall contain a copy of the lettering or design which is to appear on the closure or other device and identify the label or labels with which such closures or other devices will be used as provided in Sec. 27.73(b).

Sec. 250.267 [Amended]

Par. 35. In Sec. 250.267(a) is amended by removing the number ``251" and adding the number ``27" wherever it appears.

#### PART 251--IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

[REMOVED AND RESERVED]

Par. 29. Part 251 is removed and reserved.

Dated: June 10, 1996.

John W. Magaw,

Director.

Approved: July 3, 1996.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 96-19427 Filed 8-2-96; 8:45 am]

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